

Attachment A

239 So.3d 1185
Supreme Court of Florida.

Bobby Allen RALEIGH, Appellant,

v.

STATE of Florida, Appellee.

No. SC17-1693

|

[February 28, 2018]

Synopsis

Background: Defendant filed motion for collateral relief, after his murder conviction and death sentence were affirmed on appeal, 705 So.2d 1324. The Circuit Court, Volusia County, No. 641994CF000723XXXAWS, Leah R. Case, J., denied the motion. Defendant appealed.

[Holding:] The Supreme Court held that requirement that jury find each fact necessary to impose death sentence did not apply retroactively.

Affirmed.

Pariente, J., concurred in result and filed opinion.

Lewis and Canady, JJ., concurred in result.

West Headnotes (1)

[1] Courts

☞ In general;retroactive or prospective operation

Criminal Law

☞ Change in the law

Requirement that jury find each fact necessary to impose death sentence did not apply retroactively, and therefore defendant was not entitled to collateral relief from death sentence. Fla. R. Crim. P. 3.851.

Cases that cite this headnote

An Appeal from the Circuit Court in and for Volusia County, Leah R. Case, Judge—Case No. 641994CF000723XXXAWS

Attorneys and Law Firms

Martin J. McClain of McClain & McDermott, P.A., Wilton Manors, Florida, for Appellant

Pamela Jo Bondi, Attorney General, Tallahassee, Florida, and Marilyn Muir Beccue, Assistant Attorney General, Tampa, Florida, for Appellee

Opinion

PER CURIAM.

We have for review Bobby Allen Raleigh's appeal of the circuit court's order denying Raleigh's motion filed pursuant to Florida Rule of Criminal Procedure 3.851. This Court has jurisdiction. *See* art. V, § 3(b)(1), Fla. Const.

Raleigh's motion sought relief pursuant to the United States Supreme Court's decision in *Hurst v. Florida*, — U.S. —, 136 S.Ct. 616, 193 L.Ed.2d 504 (2016), and our decision on remand in *Hurst v. State (Hurst)*, 202 So.3d 40 (Fla. 2016), *cert. denied*, — U.S. —, 137 S.Ct. 2161, 198 L.Ed.2d 246 (2017). After this Court decided *Hitchcock v. State*, 226 So.3d 216 (Fla.), *cert. denied*, — U.S. —, 138 S.Ct. 513, 199 L.Ed.2d 396 (2017), Raleigh responded to this Court's order to show cause arguing why *Hitchcock* should not be dispositive in this case.

After reviewing Raleigh's response to the order to show cause, as well as the State's arguments in reply, we conclude that Raleigh is not entitled to relief. Raleigh was sentenced to death on two counts of first-degree murder following a jury's unanimous recommendation for death on both counts. *Raleigh v. State*, 705 So.2d 1324, 1326 (Fla. 1997). Raleigh's sentences of death became final in 1998. *Raleigh v. Florida*, 525 U.S. 841, 119 S.Ct. 105, 142 L.Ed.2d 84 (1998). Thus, *Hurst* does not apply retroactively to Raleigh's sentences of death. *See Hitchcock*, 226 So.3d at 217. Accordingly, we affirm the denial of Raleigh's motion.

The Court having carefully considered all arguments raised by Raleigh, we caution that any rehearing motion containing reargument will be stricken. It is so ordered.

LABARGA, C.J., and QUINCE, POLSTON, and LAWSON, JJ., concur.

PARIENTE, J., concurs in result with an opinion.

LEWIS and CANADY, JJ., concur in result.

PARIENTE, J., concurring in result.

*1186 I concur in result because I recognize that this Court's opinion in *Hitchcock v. State*, 226 So.3d 216 (Fla. 2017), *cert. denied*, — U.S. —, 138 S.Ct. 513, 199 L.Ed.2d 396 (2017), is now final. However, I continue to adhere to the views expressed in my dissenting opinion in *Hitchcock*.

All Citations

239 So.3d 1185, 43 Fla. L. Weekly S114

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.

Attachment B

Supreme Court of Florida

FRIDAY, MARCH 23, 2018

CASE NO.: SC17-1693

Lower Tribunal No(s):
641994CF000723XXXAWS

BOBBY ALLEN RALEIGH

vs. STATE OF FLORIDA

Appellant(s)

Appellee(s)

Appellant's Motion for Rehearing is hereby denied in light of the corrected opinion issued March 23, 2018.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON,
and LAWSON, JJ., concur.

A True Copy

Test:



John A. Tomasino

Clerk, Supreme Court



cd

Served:

MARTIN J. MCCLAIN

MARILYN MUIR BECCUE

ROSEMARY CALHOUN

HON. LEAH RANSBOTTOM CASE, JUDGE

HON. RAUL ANTONIO ZAMBRANO, CHIEF JUDGE

HON. LAURA E. ROTH, CLERK